Before The Federal Communications Commission
Comments in proceeding DA-25-219A1

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Comments with reference to Section 73.215 of the Commission's Rules, "Contour protection for short-spaced assignments". This rule section applies to proposals for the use of FM channels 221 through 300.

This rule section specifies how Contour Protection from a proposed new or modified FM station will be provided to existing stations. The subject of these comments is specifically Section 73.215(b)(2)(ii).

It has been the longstanding practice of the Commission to require the consideration of stations operating above the maximum height above average terrain (HAAT) for their class to be considered as if they were operating at the "reference" height and power for the class. When a station is operating above the maximum height for it's class, requiring it's operating power to be reduced as an "over-height" station, by Commission policy, the HAAT of the station must be reduced to the reference class HAAT, and shown as operating at the maximum power for the class.

For over-height stations, in certain cases of FM stations at mountaintop locations, quite common in the western U.S., consideration of such a station requires that the station be shown as operating <u>below ground</u>.

An example of such a station could be KBQI, a Class C FM station licensed to Albuquerque, New Mexico. This station operates at a longstanding "tower farm" known as Sandia Crest. Because of the antenna HAAT of 1259 meters is above the Class C reference height of 600 meters, the station operates at 22,500 watts effective radiated power (ERP) rather than the 100,000 watts ERP permitted at the 600 meter reference height. Power reductions of this nature are calculated online using the Commission's FMPOWER calculator.

When calculating the contour protection for a station such as KBQI, the station's HAAT is considered as 600 meters at the authorized tower location. When doing so for KBQI, this would result in the antenna being some 600 meters below ground! It is my experience that when doing so, the calculated contours vary, often significantly, from those actually generated by the station.

This anomaly in the Rules was clearly the result of the Rule being written by someone who lives in flat territory, and failed to consider the effect on contours such an anomaly would cause. This defeats the intent of the Rule to provide real-world protection to

existing stations, and in multiple cases which I have been a consultant for, actually prevents stations from otherwise being able to increase their power or class, or both, to better serve the people of their communities.

I see no reason to provide continued contour protection for existing stations to their Class maximum power and height. Most FM stations have been in operation for numerous years and have had ample time to upgrade their facilities, and have chosen not to do so. In one case, KDAG, Farmington, NM a station has been operating for many years as a Class C0 station at a HAAT of 303 meters. When KDAG is considered as currently operating, Station KSFE could upgrade from Class C3 to Class C2 at it's present location, but as KSFE must protect KDAG as if it was operating at the maximum Class C0 HAAT of 450 meters, the upgrade is precluded.

Another similar situation is that of Class C1 station KWRK at Window Rock, AZ. While the Class C1 class maximum height is 300 meters, KWRK operates at 178 meters at 94,000 watts, both below the Class C1 class maximums. When KWRK is considered as licensed, new FM station KEPS at Skyline, NM could operate as a Class C3 station at an advantageous tower site north of the currently licensed location, but is precluded from doing so as KWRK must be protected as if operating at 100,000 watts at 300 meters HAAT. KEPS is operating from a Native American reservation; and if this unrealistic protection to KWRK was resolved, KEPS could provide dramatically greater coverage to the Acoma and Laguna reservations.

Thus, I propose the deletion of Section 73.215(b)(2)(ii), which will resolve both the reduction of HAAT to a below-ground location and the unnecessary protection of stations to their Class – maximum height and power. Upon the deletion of this rule section, numerous stations such as KSFE and KEPS will be enabled to improve service to their communities, and in the case of KSFE, service to four Native American reservations will be significantly improved. Deletion of Section 73.215(b)(2)(ii) will eliminate this unnecessary regulatory barrier.

/s/

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